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EXTRAORDINARY

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PART II—Section 2

प्राधिकार में प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह घलग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 26th July, 1968:—

BILL No. 63 of 1968

A Bill further to amend the Indian Patents and Designs Act, 1911.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Patents and Designs (Amendment) Act, 1968. Short title and commencement.

(2) It shall be deemed to have come into force on the 10th day of July, 1968.

2 of 1911. 2. In the Indian Patents and Designs Act, 1911 (hereinafter referred to as the principal Act), after section 78A, the following sections shall be inserted, namely:— Insertion of new Sections 78B, 78C, 78D, and 78E.

"78B. (1) Where, in respect of an application, whether made before or after the commencement of the Indian Patents and Designs (Amendment) Act, 1968, for a patent, it appears to the Controller that the invention is relevant for defence purposes, he may, notwithstanding anything contained in the foregoing provisions of this Act, at any time before the grant of the patent omit to do or delay the doing of anything which he would otherwise be required to do in relation to the application and also, by order, prohibit or restrict,—

(i) the publication of information with respect to the subject-matter of the application; or

(ii) the communication of such information to particular persons or classes of persons.

(2) Where the Controller issues any such directions as are referred to in sub-section (1), he shall give notice of the application and of the directions to the Central Government, and the Central Government shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of India, and if, on such consideration, it appears to it that the publication of the invention would not so prejudice, give notice to the Controller to that effect, who shall thereupon revoke the directions and notify the applicant accordingly.

(3) The question whether an invention in respect of which directions have been issued under sub-section (1) continues to be relevant for defence purposes, shall be reconsidered by the Central Government within nine months from the date of issue of such directions and thereafter at intervals not exceeding twelve months, and if, on such reconsideration, it appears to the Central Government that the publication of the invention would no longer be prejudicial to the defence of India, it shall forthwith give notice to the Controller accordingly and the Controller shall thereupon revoke the directions previously issued by him.

(4) The result of every reconsideration under sub-section (3) shall be communicated to the applicant within such time and in such manner as may be prescribed.

(5) Any directions issued under rule 47 of the Defence of India Rules, 1962, in respect of an application for a patent for an invention such as is referred to in sub-section (1), and in force immediately before the commencement of the Indian Patents and Designs (Amendment) Act, 1968, shall in so far as such

directions are not inconsistent with the provisions of this section, be deemed to have been issued under that sub-section and accordingly the provisions of this section shall, so far as may be, apply to such application.

78C. (1) Where the Central Government is satisfied that it is necessary or expedient in the public interest so to do, the Central Government may, by notification in the Official Gazette and notwithstanding anything contained in the foregoing provisions of this Act, direct the Controller with respect to—

(a) all applications for patents, whether made before or after the commencement of the Indian Patents and Designs (Amendment) Act, 1968, in respect of inventions relating to—

Special provisions in respect of applications for patents in the field of food, drug or medicine.

(i) substances used or capable of being used as food or as medicine or drug, or

(ii) the methods or processes for the manufacture or production of any such substance as is referred to in sub-clause (i), or

(b) any class of applications referred to in clause (a), to abstain from doing or delay the doing of anything which he would otherwise be required to do in relation to such applications and the Controller shall comply with such direction.

(2) The question whether a direction issued under sub-section (1) continues to be necessary or expedient in the public interest, shall be reconsidered by the Central Government within nine months from the date of issue of such direction and thereafter at intervals not exceeding twelve months, and if, on such reconsideration, it appears to the Central Government that it would no longer be necessary or expedient in the public interest to continue the direction, it shall revoke the direction.

(3) The result of every reconsideration under sub-section (2) shall be published in the Official Gazette.

(4) Any directions issued under rule 47 of the Defence of India Rules, 1962, in respect of such applications or classes of applications for patents as are referred to in sub-section (1), and in force immediately before the commencement of the Indian Patents and Designs (Amendment) Act, 1968, shall, in so far as such directions are not inconsistent with the provisions of this section, be deemed to have been issued under that sub-section.

tion and accordingly the provisions of this section shall, so far as may be, apply to such applications.

Explanation.—For the purposes of this section,—

(a) “food” means any substance intended for the use of babies, invalids or convalescents, as an article of food or drink;

(b) “medicine or drug” includes—

(i) all medicines for internal or external use of human beings or animals,

(ii) all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of diseases in human beings or animals,

(iii) all substances intended to be used for or in the maintenance of public health, or the prevention or control of any epidemic disease among human beings or animals,

(iv) all chemical substances which are ordinarily used as intermediates in the preparation or manufacture of any of the medicines or substances referred to above,

but does not include insecticide, germicide, fungicide or any other substance intended to be used for the protection or preservation of plants.

78D. (1) So long as any directions issued or deemed to have been issued under section 78B or section 78C are in force in respect of an application,—

(a) the Controller shall not pass an order refusing to accept such application; and

(b) notwithstanding anything contained in this Act, no appeal shall lie against any such direction or from any order of the Controller passed in respect thereof:

Provided that the application may, subject to the directions, proceed to the stage of the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(2) The Controller may, having regard to the directions issued or deemed to have been issued under section 78B or section 78C in respect of any application for a patent or, as the case may be, any class of applications for patents referred to therein

and subject to such conditions, if any, as he thinks fit, extend the period (including any period specified in this Act as the period on the expiry of which an application for a patent shall be deemed to have been refused, or a patent applied for shall not be sealed, or the specification accompanying an application and the drawing supplied therewith shall be open to public inspection), within which anything is required to be done by or under this Act in connection with such application or applications, whether or not such period has previously expired.

78E. (1) If in respect of an application for a patent any Contrary person fails to comply with any direction issued or deemed to have been issued under sub-section (1) of section 78B,—

(a) the application for the patent shall be deemed to have been abandoned;

(b) such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(2) If the person committing an offence under sub-section (1) is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under sub-section (1) has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.'

Repeal
and
saving.

3. (1) The Indian Patents and Designs (Amendment) Ordinance, 1968, is hereby repealed.

8 of 1968.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Rule 47 of the Defence of India, Rules, 1962, *inter alia*, empowered—

- (a) the Controller of Patents to prohibit or restrict (subject to review by the Central Government) the publication of information or communication of information to particular persons or classes of persons with respect to the subject-matter of any application considered by the Controller to be relevant for defence purposes; and
- (b) the Central Government to issue directions for delaying action on any class of applications for patents if the Central Government considered it necessary or expedient so to do for the defence of India and civil defence or the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community.

•

The Central Government issued directions in exercise of the powers aforementioned for delaying action on applications for patents in the field of food, drug and medicine as it was felt necessary for the maintenance of supplies and services essential to the life of the community so to do.

2. As the Defence of India Rules, 1962, were due to expire on the 9th July, 1968, midnight, and as it was felt necessary not only to continue the directions issued under rule 47 in respect of applications relevant for defence purposes and applications in the field of food, drug and medicine but also to empower the Controller of Patents and the Central Government to issue similar directions, the Indian Patents and Designs (Amendment) Ordinance was promulgated. The Bill seeks to replace the Ordinance by an Act of Parliament.

3. The Patents Bill, 1967 which is now pending before the House, contains elaborate provisions with regard to the issue of directions in respect of applications relevant for defence purposes (*vide* clauses 35 to 42 and clause 118 of the Bill). That Bill also contains elaborate provisions (*vide* clauses 5, 48, 53, 87 and 88 of the Bill) in respect of applications for patents in the field of food, drug and medicine and the cumulative effects of these provisions would be to render un-

necessary the issue of any special directions for delaying action on applications for patents in this field. That Bill when enacted would operate to repeal the Indian Patents and Designs Act, 1911 in so far as it relates to patents. The provisions which the present Bill, if enacted, would operate to insert in that Act, would also be repealed then.

FAKHRUDDIN ALI AHMED.

NEW DELHI;
The 18th July, 1968.

MEMORANDUM REGARDING DELEGATED LEGISLATION

New section 78B, which clause 3 of the Bill seeks to insert in the principal Act, empowers the Controller of Patents to issue in relation to applications considered by him to be relevant for defence purposes directions of the nature specified in sub-section (1) of the section. The section also provides for periodical re-consideration by the Central Government of such directions. Sub section (4) of the section lays down that the result of every such reconsideration shall be communicated to the applicant and empowers the Central Government to make rules prescribing the time within which and the manner in which the results of such reconsideration shall be communicated. As these are matters of procedure and detail, the delegation of legislative power is of a normal character.

BILL NO. 62 OF 1968

A Bill to provide for the continued vesting of enemy property vested in the Custodian of Enemy Property for India under the Defence of India Rules, 1962, and for matters connected therewith.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short title, extent, application and commencement.

1. (1) This Act may be called the Enemy Property Act, 1968.

(2) It extends to the whole of India except the State of Jammu and Kashmir and it applies also to all citizens of India outside India and to branches and agencies outside India of companies or bodies corporate registered or incorporated in India.

(3) It shall be deemed to have come into force on the 10th day of July, 1968.

51 of 1962

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Custodian" means the Custodian of Enemy Property for India appointed or deemed to have been appointed under section 3 and includes a Deputy Custodian and an Assistant Custodian of Enemy Property appointed or deemed to have been appointed under that section;

(b) "enemy" or "enemy subject" or "enemy firm" means a person or country who or which was an enemy, an enemy subject or an enemy firm, as the case may be, under the Defence of India Act, 1962, and the Defence of India Rules, 1962, but does not include a citizen of India;

(c) "enemy property" means any property for the time being belonging to or held or managed on behalf of an enemy, an enemy subject or an enemy firm:

- Provided that where an individual enemy subject dies in the territories to which this Act extends, any property which immediately before his death, belonged to or was held by him or was managed on his behalf, may, notwithstanding his death, continue to be regarded as enemy property for the purposes of this Act;

(d) "prescribed" means prescribed by rules made under this Act.

3. The Central Government may, by notification in the Official Gazette, appoint a Custodian of Enemy Property for India and one or more Deputy Custodians and Assistant Custodians of Enemy Property for such local areas as may be specified in the notification:

Appoint-
ment of
Custodian
of Enemy
Property
for India

Provided that the Custodian of Enemy Property for India and any Deputy Custodian or Assistant Custodian of Enemy Property appointed under the Defence of India Rules, 1962, shall be deemed etc. to have been appointed under this section.

and
Deputy
Custodian,
etc.

4. The Central Government may, either generally or for any particular area, by notification in the Official Gazette, appoint one or more Inspectors of Enemy Property for securing compliance with the provisions of this Act and may, by general or special order, provide for the distribution and allocation of the work to be performed by them for securing such compliance:

Appoint-
ment of
Inspectors
of Enemy
Property.

Provided that every Inspector of Enemy Firms appointed under the Defence of India Rules, 1962, shall be deemed to be an Inspector of Enemy Property appointed under this section.

Property vested in the Custodian of Enemy Property for India under the Defence of India Rules, 1962 to continue to vest in the Custodian.

Transfer of property vested in Custodian by enemy or enemy subject or enemy firm.

Payment to Custodian of money otherwise payable to an enemy, enemy subject or enemy firm.

51 of 1962

5. Notwithstanding the expiration of the Defence of India Act, 1962 and the Defence of India Rules, 1962, all enemy property vested before such expiration in the Custodian of Enemy Property for India appointed under the said Rules and continuing to vest in him immediately before the commencement of this Act, shall, as from such commencement, vest in the Custodian.

6. Where any property vested in the Custodian under this Act has been transferred, whether before or after the commencement of this Act, by an enemy or an enemy subject or an enemy firm and where it appears to the Central Government that such transfer is injurious to the public interest or was made with a view to evading or defeating the vesting of the property in the Custodian, then, the Central Government may, after giving a reasonable opportunity to the transferee to be heard in the matter, by order, declare such transfer to be void and on the making of such order, the property shall continue to vest or be deemed to vest in the Custodian.

7. (1) Any sum payable by way of dividend, interest, share profits or otherwise to or for the benefit of an enemy or an enemy subject or an enemy firm shall, unless otherwise ordered by the Central Government, be paid by the person by whom such sum would have been payable but for the prohibition under the Defence of India Rules, 1962, to the Custodian or such person as may be authorised by him in this behalf and shall be held by the Custodian or such person subject to the provisions of this Act.

(2) In cases in which money would, but for the prohibition under the Defence of India Rules, 1962, be payable in a foreign currency to or for the benefit of an enemy or an enemy subject or an enemy firm (other than cases in which money is payable under a contract in which provision is made for a specified rate of exchange), the payment shall be made to the Custodian in rupee currency at the

middle official rate of exchange fixed by the Reserve Bank of India on the date on which the payment became due to that enemy, enemy subject or enemy firm.

(3) The Custodian shall, subject to the provisions of section 8, deal with any money paid to him under the Defence of India Rules, 1962 or under this Act and any property vested in him under this Act in such manner as the Central Government may direct.

8. (1) With respect to the property vested in the Custodian under Powers this Act, the Custodian may take or authorise the taking of such of Custodian measures as he considers necessary or expedient for preserving such property and where such property belongs to an individual enemy subject, may incur such expenditure out of the property as he considers necessary or expedient for the maintenance of that individual or of his family in India.

(2) Without prejudice to the generality of the foregoing provision, the Custodian or such person as may be specifically authorised by him in this behalf, may, for the said purpose,—

(i) carry on the business of the enemy;

(ii) take action for recovering any money due to the enemy;

(iii) make any contract and execute any document in the name and on behalf of the enemy;

(iv) institute, defend or continue any suit or other legal proceeding, refer any dispute to arbitration and compromise any debts, claims or liabilities;

(v) raise on the security of the property such loans as may be necessary;

(vi) incur out of the property any expenditure including the payment of any taxes, duties, cesses and rates to Government or to any local authority and of any wages, salaries, pensions, provident fund contributions to, or in respect of, any employee of the enemy and the repayment of any debts due by the enemy to persons other than enemies;

(vii) transfer by way of sale, mortgage or lease or otherwise dispose of any of the properties;

(viii) invest any moneys held by him on behalf of enemies for the purchase of Treasury Bills or such other Government

securities as may be approved by the Central Government for the purpose;

(ix) make payments to the enemy and his dependents;

(x) make payments on behalf of the enemy to persons other than those who are enemies, of dues outstanding on the 25th October, 1962; and

(xi) make such other payments out of the funds of the enemy as may be directed by the Central Government.

Explanation.—In this sub-section and in sections 10 and 17, “enemy” includes an enemy subject and an enemy firm.

Exemption
from at-
tachment,
etc.

9. All enemy property vested in the Custodian under this Act shall be exempt from attachment, seizure or sale in execution of decree of a civil court or orders of any other authority.

Transfer
of secu-
rities be-
longing to
an enemy.

10. (1) Where, in exercise of the powers conferred by section 8, the Custodian proposes to sell any security issued by a company and belonging to an enemy, the company may, with the consent of the Custodian, purchase the securities, notwithstanding anything to the contrary in any law or in any regulations of the company and any securities so purchased may be re-issued by the company as and when it thinks fit so to do.

(2) Where the Custodian executes and transfers any securities issued by a company, the company shall, on receipt of the transfer and an order in this behalf from the Custodian, register the securities in the name of the transferee, notwithstanding that the regulations of the company do not permit such registration in the absence of the certificate, script or other evidence of title relating to the securities transferred:

Provided that any such registration shall be without prejudice to any lien or charge in favour of the company and to any other lien or charge of which the Custodian gives express notice to the company.

Explanation.—In this section, “securities” includes shares, stocks, bonds, debentures and debenture stock but does not include bills of exchange.

11. (1) The Custodian may, by notice in writing require any person whom he believes to be capable of giving information concerning any enemy property to attend before him at such time and place as may be specified in the notice and examine any such person concerning the same, reduce his statement to writing and require him to sign it.

Power of
Custodian
to sum-
mon per-
sons and
call for
docu-
ments.

(2) The Custodian may, by notice in writing, require any person whom he believes to have in his possession or control any account book, letter book, invoice, receipt or other document of whatever nature relating to any enemy property, to produce the same or cause the same to be produced before the Custodian at such time and place as may be specified in the notice and to submit the same to his examination and to allow copies of any entry therein or any part thereof to be taken by him

12. Where any order with respect to any money or property is addressed to any person by the Custodian and accompanied by a certificate of the Custodian that the money or property is money or property vested in him under this Act, the certificate shall be evidence of the facts stated therein and if that person complies with the orders of the Custodian, he shall not be liable to any suit or other legal proceeding by reason only of such compliance.

Protec-
tion for
comply-
ing with
orders of
Custo-
dian.

13. Where under this Act,—

Validity
of action
taken in
pursu-
ance of
orders of
Custo-
dian.

(a) any money is paid to the Custodian; or

(b) any property is vested in the Custodian or an order is given to any person by the Custodian in relation to any property which appears to the Custodian to be enemy property vested in him under this Act

neither the payment, vesting nor order of the Custodian nor any proceedings in consequence thereof shall be invalidated or affected by reason only that at a material time,—

(i) some person who was or might have been interested in the money or property, and who was an enemy or an enemy firm had died or had ceased to be an enemy or an enemy firm; or

(ii) some person who was so interested and who was believed by the Custodian to be an enemy or an enemy firm, was not an enemy or an enemy firm

Proceedings
against
companies
whose assets
vest
in Custo-
dian.

Returns
as to
enemy
pro-
perty.

Regis-
ters of
returns.

Levy of
fees.

1 of 1958.

14. Where the enemy property vested in the Custodian under this Act consists of assets of a company, no proceeding, civil or criminal, shall be instituted under the Companies Act, 1956, against the company or any director, manager or other officer thereof except with the consent in writing of the Custodian.

15. (1) The Custodian may call for from persons who, in his opinion, have any interest in, or control over, any enemy property vested in him under this Act, such returns as may be prescribed.

(2) Every person from whom a return is called for under subsection (1) shall be bound to submit such return within the prescribed period.

16. (1) All returns relating to enemy property submitted to the Custodian under this Act shall be recorded in such registers as may be prescribed.

(2) All such registers shall be open to inspection subject to the payment of such fees as may be prescribed and to such reasonable restrictions as the Custodian may impose, to any person who, in the opinion of the Custodian, is interested in any particular enemy property as a creditor or otherwise and any such person may also obtain a copy of the relevant portion from the registers on payment of the prescribed fees.

17. (1) There shall be levied by the Custodian fees equal to two per centum of—

(a) the amount of moneys paid to him;

(b) the proceeds of the sale or transfer of any property which has been vested in him under this Act; and

(c) the value of the residual property, if any, at the time of its transfer to the original owner or other person specified by the Central Government under section 18:

Provided that in the case of an enemy whose property is allowed by the Custodian to be managed by some person specially authorised in that behalf, there shall be levied a fee of two per centum of the gross income of the enemy or such less fee as may be specifically

fixed by the Central Government after taking into consideration the cost of direct management incurred by that Government, the cost of superior supervision and any risks that may be incurred by that Government in respect of the management:

Provided further that the Central Government may, for reasons to be recorded in writing, reduce or remit the fees leviable under this sub-section in any special case or class of cases.

Explanation.—In this sub-section “gross income of the enemy” means income derived out of the properties of the enemy vested in the Custodian under this Act.

(2) The value of any property for the purpose of assessing the fees shall be the price which, in the opinion of the Central Government or of an authority empowered in this behalf by the Central Government, such property would fetch if sold in the open market.

(3) The fees in respect of property may be levied out of any proceeds of the sale or transfer thereof or out of any income accrued therefrom or out of any other property belonging to the same enemy and vested in the Custodian under this Act.

(4) The fees levied under this section shall be credited to the Central Government.

18. The Central Government may, by general or special order, direct that any enemy property vested in the Custodian under this Act and remaining with him shall be divested from him and be returned, in such manner as may be prescribed, to the owner thereof or to such other person as may be specified in the direction and thereupon such property shall cease to vest in the Custodian and shall revest in such owner or other person.

Divesting
of enemy
property
vested in
the Cus-
todian.

19. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian or an Inspector of Enemy Property for anything which is in good faith done or intended to be done under this Act.

Protect-
tion of
action
taken
under
the Act.

Penalty.

20. (1) If any person makes any payment in contravention of the provisions of sub-section (1) of section 7, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both and the payment or dealing shall be void.

(2) If any person contravenes the provisions of sub-section (2) of section 10, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) If any person fails to comply with a requisition made by the Custodian under sub-section (1) or sub-section (2) of section 11, he shall be punishable with fine which may extend to five hundred rupees.

(4) If any person fails to submit the return under sub-section (2) of section 15, or furnishes such return containing any particular which is false and which he knows to be false or does not believe to be true, he shall be punishable with fine which may extend to five hundred rupees.

**Offences
by com-
panies.**

21. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Effect of laws inconsistent with the Act.

23. (1) The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the returns that may be called for by the Custodian under sub-section (1) of section 15 and the period within which such returns shall be submitted under sub-section (2) of that section;

(b) the registers in which the returns relating to enemy property shall be recorded under section 16;

(c) the fees for the inspection of registers and for obtaining copies of the relevant portions from the registers under sub-section (2) of section 16;

(d) the manner in which enemy property vested in the Custodian may be returned under section 18;

(e) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be;

so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Certain
orders
made un-
der the
Defence
of India
Rules,
1962, to
continue
in force.

24. Every order which was made under the Defence of India Rules, 1962, by the Central Government or by the Custodian of Enemy Property for India appointed under those Rules, relating to enemy property and which was in force immediately before the expiration thereof shall, in so far as such order is not inconsistent with the provisions of this Act, be deemed to continue in force and to have been made under this Act.

Repeal
and sav-
ing.

25. (1) The Enemy Property Ordinance, 1968, is hereby repealed. 7 of 1968.
(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Consequent on the Chinese aggression in 1962, immovable properties, cash balances and firms belonging to the Chinese nationals in India valued approximately at Rs. 28:85 lakhs were vested in the Custodian of Enemy Property for India appointed under the Defence of India Rules, 1962. Similarly, consequent on the aggression by Pakistan in 1965, immovable and some specified movable Pakistani properties in India, the total value of which has been approximately estimated at Rs. 27 crores, were vested in the said Custodian of Enemy Property. These vestments were made under the powers derived from the Defence of India Rules, 1962. These properties were being administered by the Custodian of Enemy Property for India in accordance with the provisions of the Defence of India Rules, 1962 and the Orders made thereunder.

The Proclamation of Emergency was revoked with effect from the 10th January, 1968 and consequently the powers under the Defence of India Act, 1962 and the rules made thereunder were to remain in force only for a period of six months thereafter, i.e. up to 10th July, 1968. It was, therefore, thought necessary to have fresh legal authority with effect from that date (10th July, 1968) for the administration of the Chinese and Pakistani properties referred to above which are already vested in the Custodian of Enemy Property for India. The management of the said properties by the Custodian of Enemy Property for India has to continue, as it has not been possible for the Government of India so far to arrive at a settlement with the Governments of those countries.

As Parliament was not in session and as the situation called for immediate action, an Ordinance called 'The Enemy Property Ordinance 1968 (7 of 1968)' was promulgated by the President on the 6th July, 1968.

The present Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 10th July, 1968.

DINESH SINGH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 12(27) /67-E.Pty., dated the 17th July, 1968
from Shri Dinesh Singh, Minister of Commerce to the Secretary,
Lok Sabha].

The President having been informed of the subject matter of the
Enemy Property Bill, 1968, recommends under articles 117(1) and
117(3) of the Constitution of India, the introduction and considera-
tion of the Bill in the Monsoon Session of the Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of Custodian of Enemy Property for India, Deputy Custodians and Assistant Custodians of Enemy Property. Clause 4 of the Bill provides for the appointment of Inspectors of Enemy Firms. The annual expenditure on the already existing establishment of the office of the Custodian of Enemy Property is about Rs. 67,800. This amount of Rs. 67,800 will continue to be incurred annually. There will be no non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to make rules for carrying out the purposes of the proposed enactment. The various matters in relation to which such rules may be made have been detailed in the various items of sub-clause (2) of that clause and relate mainly to the returns that may be called for by the Custodian, the registers in which the returns relating to enemy property shall be recorded, the fees for the inspection of registers and for obtaining copies of the relevant portions from the registers and the manner in which enemy property vested in the Custodian may be returned to the owner thereof. These are matters of administrative detail and it is difficult to provide for all these matters in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL No. 64 OF 1968.

A Bill further to amend the Inter-State Water Disputes Act, 1956.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. This Act may be called the Inter-State Water Disputes (Amendment) Act, 1968. Short title.

33 of 1956. 2. In section 4 of the Inter-State Water Disputes Act, 1956 (hereinafter referred to as the principal Act), for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 4.

“(2) The Tribunal shall consist of a Chairman and two other members nominated in this behalf by the Chief Justice of India from among persons who are, or have been, Judges of the Supreme Court or are Judges of a High Court.”,

Amend-
ment of
section 5.

3. In section 5 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) If the members of the Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.”.

Ins-
er-
tion of
new
section
5A.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Filling of
vacancies.

“5A. If, for any reason a vacancy (other than a temporary absence) occurs in the office of the Chairman or any other member of a Tribunal, the Central Government shall appoint another person in accordance with the provisions of sub-section (2) of section 4 to fill the vacancy, and the investigation of the matter referred to the Tribunal may be continued by the Tribunal from the stage at which the vacancy is filled.”.

Amend-
ment of
section 9.

5. In section 9 of the principal Act, in sub-section (4), for the words “Subject to any rules that may be made under this Act”, the words “Subject to the provisions of this Act and any rules that may be made thereunder” shall be substituted.

Amend-
ment of
section 10.

6. In section 10 of the principal Act, for the words “The presiding officer of a Tribunal”, the words “The Chairman and other members of a Tribunal” shall be substituted.

Amend-
ment of
section 13.

7. In section 13 of the principal Act,—

(1) in clause (d) of sub-section (2), for the words “the presiding officer”, the words “the Chairman and other members” shall be substituted;

(2) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which

it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'

STATEMENT OF OBJECTS AND REASONS

The Inter-State Water Disputes Act, 1956, provides for the constitution of a Tribunal consisting of one person from among persons who are or have been Judges of the Supreme Court or are Judges of a High Court nominated in this behalf by the Chief Justice of India. River water disputes affect a large number of people. The stakes involved in these disputes are very high. The welfare of millions of people depends on an equitable settlement of these disputes. The issues on which the Tribunals give award thus affect the welfare of millions of people for all times to come. Further, these issues are often of a highly complex nature involving many technical and socio-economic issues. There has, therefore, been a growing feeling that such important questions should be determined not by a one-man Tribunal but by a group of three. The Bill seeks to amend the Inter-State Water Disputes Act, 1956, to provide for a Tribunal of three persons who are or have been Judges of the Supreme Court or are Judges of a High Court.

NEW DELHI;
The 12th July, 1968.

K. L. RAO,

—
PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. DW. II-32(27)/68, dated the 20th July, 1968 from Dr. K. L. Rao, Minister of Irrigation and Power to the Secretary, Lok Sabha].

The President, having been informed about the subject matter of the Inter-State Water Disputes (Amendment) Bill, 1968, has, under articles 117(1) and 117(3) of the Constitution, recommended to the Lok Sabha the introduction and consideration of the Bill.

FINANCIAL MEMORANDUM

Section 4 of the Inter-State Water Disputes Act, 1956 (33 of 1956) empowers the Central Government to constitute Water Disputes Tribunals for adjudication of water disputes. Under clause 2 of the Bill, the Tribunal will consist of three judges who are or have been judges of the Supreme Court or are judges of a High Court. Under clause 6 of the Bill, the Chairman and other members of a Tribunal and the assessors will be entitled to receive such remuneration, allowances or fees as may be prescribed. The expenditure involved will be initially borne by the Central Government but will later on be adjusted in accordance with the decision of the Tribunals. The proposed amendment would involve an additional recurring expenditure of approximately Rs. 1,50,000 per annum for each Tribunal.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause (d) of sub-section (2) of section 13 of the Act, as proposed to be amended by clause 7 of the Bill, empowers the Central Government to make rules providing for payment of remuneration, allowances or fees to the Chairman and other members of a Tribunal and assessors. These are matters of administrative detail and can hardly be provided in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL No. 55 OF 1968

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1968. Short title and commencement.
- (2) It shall come into force at once.

Amend-
ment of
article
145.

2. In article 145 of the Constitution, after clause (5), the following new clause shall be added, namely:—

“(6) The Supreme Court shall not dismiss any matter that comes before it in the form of appeal or otherwise without stating, may be howsoever briefly, the reason or reasons for dismissing the matter sought to be raised before it.”

STATEMENT OF OBJECTS AND REASONS

In our democratic system, the ultimate sovereignty resides in the people. The executive, the legislature and the judiciary are all creatures of the Constitution which the people of India have given themselves, and all these three branches of the government are, and should ultimately be, responsible and accountable to the public opinion in this country. In order to enable the public to assess the work of the executive, the legislature and the judiciary, it is necessary that sufficient information is made available to the people.

The Supreme Court, being the highest judicial tribunal of the land, should not only deliver its judgments in open court, but should also state in the orders passed by it, as clearly as may be, the reasons for passing these orders. There have been cases where the Supreme Court, in summary proceedings, has dismissed petitions upon hearing petitioners or their counsel, but has not thought it necessary to state the reasons for its doing so.

In the interest of justice and in order to make possible an assessment of the decisions of the Supreme Court, it would be desirable if it was made mandatory on the Supreme Court that while dismissing petitions it should state the reasons for its doing so. The passing of this Bill will, it is hoped, improve the quality of the work of the Supreme Court.

NEW DELHI;

The 18th May, 1968.

MADHU LIMAYE.

BILL No. 54 of 1968

A Bill to confer additional discretionary powers on the Supreme Court to issue writs in certain cases.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Supreme Court (Additional Discretionary Powers) Act, 1968.

2. The Supreme Court shall have discretionary power to issue Discretionary power to issue certain writs etc.
to any person or authority, including in appropriate cases any Government, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* or any of them, for any purpose other than the one mentioned in article 32 of the Constitution, if in the opinion of the Supreme Court the matter sought to be raised before it is of such importance as requires its intervention.

STATEMENT OF OBJECTS AND REASONS

In the matter of issuing writs, the Constitution has made a distinction between the powers of the High Courts and those of the Supreme Court. While the right to move the Supreme Court for the enforcement of citizens' fundamental rights has itself been made a fundamental right by the Constitution-makers by including it in Part III of the Constitution, the Supreme Court has only appellate jurisdiction in respect of writs issued for purposes other than those mentioned in article 32. Thus the Constitution has conferred wider power on the High Courts under article 226 than what the Supreme Court enjoys under article 32.

power on the High Courts under article 226 than what the Supreme Court has original jurisdiction. In the interest of justice it would be desirable to cut down litigation as far as possible and also achieve quickly clarification and legal finality in regard to matters involving individual rights. However, it is not intended that the entire work of the High Courts in respect of writs should be taken over by the Supreme Court. The Bill, therefore, seeks to confer on the Supreme Court discretionary power to exercise original jurisdiction in cases where it holds that its intervention is both required and justified by the importance of the matter sought to be raised before it.

NEW DELHI;
The 18th May, 1968.

MADHU LIMAYE

BILL No. 60 OF 1968

A Bill further to amend the Cantonments Act, 1924.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cantonments (Amendment) Act, 1968. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint which shall not be later than 100 days after it receives assent of the President.

Amend-
ment of
section 13.

2. In the Cantonments Act, 1924 (hereinafter referred to as the principal Act), in section 13,—

(a) in sub-section (3),—

(i) clauses (b) and (e) shall be omitted;

(ii) in clause (f), for the word "seven", the word "twelve" shall be substituted;

(b) in sub-section (4),

(1) clause (b) shall be omitted;

(2) for clause (e), the following clause shall be substituted, namely:—

"(e) (i) in cantonments of which the civil population exceeds seven thousand five hundred, ten members to be elected under this Act;

(ii) in cantonments of which the civil population exceeds five thousand, but does not exceed seven thousand five hundred, nine members to be elected under this Act;

(iii) in cantonments of which the civil population exceeds two thousand five hundred, but does not exceed five thousand, eight members to be elected under this Act.";

(3) clause (f) shall be omitted.

(c) in sub-section (5),

(1) clause (b) shall be omitted;

(2) for clause (c), the following clause shall be substituted, namely:—

"(c) (i) in cantonments of which civil population exceeds one thousand five hundred, three members elected under this Act;

(ii) in cantonments of which civil population exceeds one thousand but does not exceed one thousand and five hundred, two members elected under this Act."

(d) sub-section (6) shall be omitted;

(e) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) Every election or nomination of a member of a Board and every vacancy in the membership thereof shall be notified by the Central Government in the Official Gazette.”

3. Section 14 of the principal Act shall be omitted.

Omission
of section
14.

4. In section 15 of the principal Act, in sub-section (1), for the words “three years”, the words “five years” shall be substituted.

Amend-
ment of
section 15.

5. In section 17 of the principal Act,—

Amend-
ment of
section 17.

(a) in sub-section (1), for the words “the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected”, the words “a re-election to fill the vacancy or vacancies shall be held” shall be substituted.

(b) in sub-section (2) for the words “shall be filled by nomination by the Central Government after consultation with the Officer Commanding-in-chief, the Command” the words “shall be filled by the President of the Cantonment Board with the concurrence of the Vice-President” shall be substituted.

6. In section 19 of the principal Act, in sub-section (1), the words “to the Officer Commanding-in-Chief, the Command,” shall be omitted.

Amend-
ment of
section 19.

7. In section 20 of the principal Act,—

Amend-
ment of
section 20.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The President shall be elected by the members of the Board from amongst its members.”

(b) sub-section (2) shall be omitted.

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(2) The Vice-President shall be elected by the members of the Board from among its members.”

Amend-
ment of
section 21

8. (1) In section 21 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The term of the office of the President shall be five years or the residue of his term as a member of the Board, whichever is less.”

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The term of the office of the Vice-President shall be five years or the residue of his term as a member of the Board, whichever is less.”

(c) after sub-section (2), the following new sub-section shall be added, namely:—

“(3) The Vice-President may resign his office by notice in writing to the President and on his resignation being accepted by the Board the office shall be filled by a member of the Board.”

Amend-
ment of
section 22.

9. In section 22, of the principal Act, sub-section (4) shall be omitted.

Omission
of section
25.

10. Section 25 of the principal Act shall be omitted.

Amend-
ment of
section 39.

11. In section 39 of the principal Act, for sub-sections (1) and (1A), the following sub-section shall be substituted, namely:—

“(1) The quorum necessary for the transaction of the business at a meeting of a Board shall be determined in accordance with the rules framed under this Act.”

Amend-
ment of
section 40.

12. In section 40 of the principal Act,—

(i) in clause (a), the words “in which there is more than one elected member” shall be omitted.

(ii) clause (b) shall be omitted.

Omission
of section
49.

13. Section 49 of the principal Act shall be omitted.

Omission
of section
50.

14. Section 50 of the principal Act shall be omitted.

15. In section 51 of the principal Act, sub-sections (1) and (3) shall be omitted. Amend-
ment of
section 51.

16. In section 52 of the principal Act,— Amend-
ment of
section 52.

- (i) in clause (b) of sub-section (1), for the words “which has been referred to him under sub-section (1) of section 51”, the words “mentioned in sub-section (2) of section 51,” shall be substituted.
- (ii) in sub-section (2), for the words “When any decision of a Board has been referred to him under sub-section (1) of section 51”, the words “with regard to any decision of a Board mentioned in sub-section (2) of section 51,” shall be substituted.

17. In section 72 of the principal Act, for the words “at least once in every three years”, the words “at least once in every five years,” shall be substituted. Amend-
ment of
section 72.

18. Section 78 of the principal Act shall be omitted. Omission
of
section 78.

19. In section 99A of the principal Act, the words “after having obtained the concurrence of the Board” shall be added at the end. Amend-
ment of
section 99A.

20. In section 101 of the principal Act, in sub-section (1), the words “with the previous sanction of the Officer Commanding-in-Chief, the Command,” shall be omitted. Amend-
ment of
section 101.

21. In section 102 of the principal Act, the proviso shall be omitted. Amend-
ment of
section 102.

22. In section 107 of the principal Act, in sub-section (3), the words “with the previous sanction of the Officer Commanding-in-Chief, the Command,” shall be omitted. Amend-
ment of
section 107.

23. In section 109 of the principal Act, clause (d) of the second proviso shall be omitted. Amend-
ment of
section 109.

24. In section 134 of the principal Act, in sub-section (2), the words “with the previous sanction of the Officer Commanding-in-Chief, the Command,” shall be omitted. Amend-
ment of
section 134.

Amend-
ment of
section
138.

25. In section 138 of the principal Act, in sub-section (1),—
(i) for clauses (a), (b) and (c), the following clause shall be substituted, namely:—
“(a) the civil area committee of the Cantonment Board,”
(ii) clause (d) shall be re-lettered as clause (b).

Amend-
ment of
section
141.

26. In section 141 of the principal Act, in sub-section (1), after the words “the Executive Officer may,” the words “with the consent of the Board,” shall be inserted.

Omisi-
sion of
section
178.

27. Section 178 of the principal Act shall be omitted.

Amend-
ment of
section
181.

28. In section 181 of the principal Act,—

(a) sub-section (3) shall be omitted;
(b) in sub-section (6), the proviso shall be omitted.

Amend-
ment of
section
184.

29. In section 184 of the principal Act, clause (c) shall be omitted.

Amend-
ment of
section
185.

30. In section 185,—

(a) the second proviso to sub-section (1) shall be omitted.
(b) sub-section (2) shall be omitted.

Amend-
ment of
section
192.

31. In section 192 of the principal Act, in sub-section (1), for the words “without the previous sanction of the Officer Commanding-in-Chief, the Command”, the words “without the concurrence of the Officer Commanding, the Station” shall be substituted.

Amend-
ment of
section
200.

32. In section 200 of the principal Act, clause (b) of the proviso shall be omitted.

Amend-
ment of
section
242.

33. In section 242 of the principal Act, the words “With the previous sanction of the President,” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Cantonments Act, 1924 is a piece of obsolescent and outdated legislation wholly out of tune with the conditions of freedom and democracy. It is a negation of the principles of local self-government.

The Act packs the Cantonment Boards with nominated military officers and magistrates and unnecessarily restricts the scope of the elective principle. It confers on the officers not only vast powers of an emergency character but also dictatorial powers in normal times. It also gives veto to the Presidents of the Cantonment Boards who are generally the Officers Commanding the Stations to thwart the will of the elected majority.

These amendments seek to democratise the administration of the Cantonments by introducing the principle of election and responsibility to the elected representatives of the people. The Bill is designed to give effect to the long overdue changes in the Cantonment administration.

NEW DELHI;

MADHU LIMAYE.

The 3rd June, 1968.

BILL No. 61 OF 1968

A Bill to amend the Delimitation Commission Act, 1962.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short
title and
commen-
cement.

1. (1) This Act may be called the Delimitation Commission (Amendment) Act, 1968.

(2) It shall come into force on the first day of January, 1969.

61 of 1962. 2. After section 9 of the Delimitation Commission Act, 1962, the **Insertion** following section 9A shall be inserted, namely:—

of new
section
9A.

"9A. Notwithstanding anything contained in section 9 of this Act, the Delimitation Commission shall, in order to give effect to the provisions of articles 81, 82 and 170 of the Constitution of India, delimit the territorial constituencies in such manner that:

(a) for the House of the People, the difference in the number of voters in any two territorial constituencies of the States, mentioned in sub-clause (a) of clause (1) of article 81 of the Constitution shall not exceed, so far as practicable, the ratio of 100 : 110;

(b) for the House of the People, the difference in the number of voters in any two territorial constituencies in the Union Territories, mentioned in sub-clause (b) of clause (1) of article 81 of the Constitution, shall not exceed, so far as practicable, the ratio of 100: 110; and

(c) for the Legislative Assemblies mentioned in article 170 of the Constitution and the bodies mentioned in articles 239A and 240 thereof and the Delhi Administration Act, 1966 the difference between the number of voters in any two territorial constituencies of the said State or Union territory shall not exceed, so far as practicable, the ratio of 100 : 110."

19 of 1966.

Delimita-
tion of
constitu-
encies
on the
basis of
number
of votes.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India has given certain fundamental rights to the citizens of this country and among them one of the most precious is the right to equality. The Constitution also prescribes that elections to the House of the People and Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say every person who is a citizen of India and who is not less than 21 years of age shall be entitled to be registered as a voter at any such election. This implies that the value of every citizen's vote shall be as nearly equal as possible. The principle of one man, one vote can be realised only if the territorial constituencies are so delimited that they are roughly equal in size. If there are wide discrepancies in the size of the constituencies, the value of the vote of a voter in smaller constituencies will be higher than the value of the vote of a voter in the larger constituencies, and, to that extent, the principle of equality and adult franchise will be violated and the results of the election vitiated. An analysis of the size of constituencies for the House of the People and the Legislative Assemblies reveals wide disparities. For example, the largest constituency in Bihar (Nalanda) has 594,698 voters and the smallest (Jamsbedpur) has only 442,633 voters. The largest constituency in Maharashtra (Bombay North East) has 644,638 voters and the smallest (Rajapur) has only 396,063 voters. The largest constituency in Orissa (Kendrapara) has 581,875 voters and the smallest (Kalahandi) has only 415,610 voters. The largest constituency in West Bengal (Calcutta North West) has 591,674 voters and the smallest (Darjeeling) has only 422,699 voters.

Our Vidhan Sabha constituencies reveal similar or even perhaps wider variations in different States. Thus, in Madras the largest constituency (Saidapet) has 121,979 voters and the smallest constituency (Gudalpur) has 69,434 voters. The largest constituency in Maharashtra (Gulund) has 127,989 voters and the smallest constituency (Aurangabad East) has only 37,095 voters.

These wide differences in the size of the constituencies make a mockery of elections and enable the favourites of the Ruling Party to get elected.

In England electoral reform was aimed at abolition of rotten boroughs and pocket constituencies which favoured the vested interests and the ruling group. Similarly in the United States, after prolonged agitation, the Supreme Court ordered redistricting of the constituencies on a rational and equalitarian basis for the House of Representatives.

This Bill seeks to lay down that the ratio in any two Assembly constituencies in the same State and the House of the People constituencies in the various States shall, as far as practicable, be 100:110. This will do away with gerrymandering and will make electoral results reflect more faithfully the state of popular opinion in the country.

NEW DELHI;

MADHU LIMAYE.

The 3rd June, 1968.

BILL No. 58 of 1968

A Bill further to amend the Indian Penal Code, 1860

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1968.

(2) It shall come into force at once.

Omission of section 124A.

2. Section 124A of the Indian Penal Code, 1860, shall be omitted. 45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code was enacted by the British imperial power in India to keep under subjugation the people of India. While it is true that there are provisions in this code regulating ordinary matters of law and order which any State has to regulate, there are certain provisions which were intended only to enslave a free people. Section 124A which in its present form was substituted for the former section in 1898 is one such provision. Innumerable leaders of India's freedom movement including Lokamanya Bal Gangadhar Tilak were prosecuted and punished under this provision of the Indian Penal Code which in a free India can be termed as nothing but an anachronism.

Hence this Bill.

NEW DELHI;

GEORGE FERNANDES.

The 18th June, 1968.

BILL No. 59 OF 1968

A Bill further to amend the Indian Penal Code, 1960.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short title and
Commen-
cement. 1. (1) This Act may be called the Indian Penal Code (Amend-
ment) Act, 1968.

Omission of sec-
tion 125. 2. Section 125 of the Indian Penal Code, 1860 (hereinafter referred to as the Code), shall be omitted.

3. Section 126 of the Code shall be omitted.

Omission
of sec-
tion 126.

4. Section 127 of the Code shall be omitted.

Omission
of sec-
tion 127.

STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code was drafted by the first Indian Law Commission and the draft code was submitted to the Governor-General of India in Council in 1837. After some revisions it was completed in 1850, and the Legislative Council passed it into law on October 6, 1860. It is obvious that this law was intended to preserve the British imperial rule in India and to help it in its designs on her other Asian colonies.

Sections 125, 126 and 127 are completely irrelevant in the legislation of a country, which swears by the policy of non-alignment. And for a free India to have this legacy of British imperial rule enshrined in her Penal Code can do no credit.

Hence this Bill.

NEW DELHI;

GEORGE FERNANDES.

The 18th June, 1968.

S. L. SHAKDHER,
Secretary.

CORRIGENDA

In the Gazette of India Extraordinary, Part II—Section 2—

1. No. 3, dated the 16th February, 1968:—
 - (i) Page 34, line 6 from bottom, delete 'clause (2), the following sub-';
 - (ii) Page 42, in the long title of the Bill, for '1968.' read '1908.'; and
 - (iii) Page 53, marginal heading to clause 22, after 'apply to' insert 'film industry'.
2. No. 5, dated the 21st February, 1968:—
Page 75, line 21 for 'filed' read 'filled'.
3. No. 8, dated the 29th February, 1958:—
 - (i) Page 114, marginal heading to clause 5, for '25C' read '35C';
 - (ii) Page 129, line 4 from bottom, for 'unded' read 'under'; and
 - (iii) Page 173, line 3, for 'accuing' read 'accruing'.
4. No. 13, dated the 14th March, 1968:—
Page 222, line 18, for '5,16,000' read '5,15,000'.
5. No. 14, dated the 18th March, 1968:—
Page 244, line 25, for '45,00' read '45,000'.
6. No. 15, dated the 20th March, 1968:—
Page 260, line 21, for '1,24,7000' read '1,24,700'.
7. No. 17, dated the 22nd March, 1968:—
 - (i) Page 277, line 16, for '000' read '1,000';
 - (ii) Page 281, line 10, delete 'T'; line 17, for '60,000' read '6,60,000'; line 19, for '13' read '11'; line 21, for '14' read '13' and line 33, for '2,242' read '2,442'; and
 - (iii) Page 282, line 18, for '55,22,000' read '4,55,22,000'; line 22, for '9,26,000' read '99,26,000', line 32, for '7,55,00,' read '7,55,000'; and last line, for '26,84,40,73' read '26,84,40,733'.
8. No. 18, dated the 26th March, 1968:—
 - (i) Page 285, in the long title of the Bill, line 3, after 'services of' insert 'a part of';
 - (ii) Page 288, line 9 from bottom, for '1,41,0,000' read '1,41,70,000'; and line 10 from bottom for '25,41,88,000' read '41,88,000';
 - (iii) Page 293, line 12 from bottom, for '10,14,700' read '1,10,14,700'; and
 - (iv) Page 294, line 10 from bottom for '10' read '100'.
9. No. 20, dated the 29th March, 1968:—
Page 315, marginal heading, for 'article 755' read 'article 75'.
10. No. 21, dated the 1st April, 1968:—
Page 320, line 4, for 'establishment' read 'established'.
11. No. 22, dated the 8th April, 1968:—
Page 376, read 'Restrictions on the opening of a new place of business.' against line 17 from bottom.

12. No. 24, dated the 18th April, 1968:—
Page 415, line 11, after 'will be' insert 'no'.

13. No. 26, dated the 26th April, 1968:—
Page 478, marginal heading to clause 8, for 'Power Rules.' read 'Power to make Rules.'

14. No. 28, dated the 6th May, 1968:—
(i) Page 507, line 7 from bottom for 'from' read 'forum';
(ii) Page 511, line 5, for 'delected' read 'delcted';
(iii) Page 522, line 22 from bottom, for 'if' read 'of';
(iv) Page 531, line 35, for Provided that out of the aforesaid number of Directors, read practical experience in, which would, in the opinion of; and
(v) Page 559, marginal heading to clause 28, after 'Insertion of' read 'Insertion of sec.'.

15. No. 29, dated the 6th May, 1968:—
Page 593, line 2 from bottom, for '3,62,000' read '35,62,000' and for '35,62,00' read '35,62,000'.

16. No. 31, dated the 9th May, 1968:—
(i) Page 632, line 11 from bottom, after 'in' insert 'the';
(ii) Page 659, marginal heading to clause 91, after 'of' insert 'witnesses.'; and
(iii) Page 670, marginal heading to clause 127, for 'order warrant' read 'order or warrant'.

17. No. 32, dated the 10th May, 1968:—
Page 687, in the long title of the Bill, for 'Retraint' read 'Restraint'.

S. L. SHAKDHER,
Secretary.